

ETHICS PROGRAM INSPECTION REPORT

Agency: Nuclear Waste Technical Review Board

Report No.: 16-36I

Date: May 11, 2016

Period Covered by Review: January 2015 – December 2015

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

Preventing Conflicts of Interest
in the Executive Branch

1.0 AGENCY DATA		
EMPLOYEES (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	12
1.2	Number of agency special Government employees	11
1.3	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed	0
1.4	Number of non-PAS public financial disclosure reports required to be filed	15
1.5	Number of confidential financial disclosure reports required to be filed	5
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	Director of Administration
1.7	Grade level of DAEO	AD
1.8	Title of Alternate DAEO (ADAEO)	Executive Director
1.9	Grade level of ADAEO	SES
1.10	Title of the primary, day-to-day ethics program administrator	Director of Administration
1.11	Grade level of the primary, day-to-day ethics program administrator	AD
1.12	Current number of full-time ethics officials	0
1.13	Current number of part-time ethics officials	2
1.14	Average full-time equivalent (FTE) value of a part-time ethics official(s) (For example, if part-time ethics officials at the agency generally devote 10 hours per week to ethics work, the average FTE value is 25%.)	10%
1.15	Number of reporting levels between the DAEO and the agency head	1
COMMENTS		
(1.3) Nuclear Waste Technical Review Board (NWTRB) does not have PAS officials. (1.7; 1.11) Pursuant to the Nuclear Waste Policy Amendments Act, NWTRB uses the Administratively Determined (AD) pay system for professional staff members.		

2.0 LEADERSHIP				
COMPLIANCE REQUIREMENT	Yes	No	N/A	
2.1	OGE has received an up-to-date designation from the agency head naming the DAEO. <i>See</i> 5 C.F.R. § 2638.202(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.2	OGE has received an up-to-date designation from the agency head naming the ADAEO. <i>See</i> 5 C.F.R. § 2638.202(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
None				

3.0 ETHICS AGREEMENTS				
COMPLIANCE REQUIREMENT	Yes	No	N/A	
3.1	During the period under review, all PAS officials complied with their ethics agreements. <i>See</i> 5 C.F.R. § 2634.804.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.2	During the period under review, all PAS officials complied with their ethics agreements in a timely fashion. <i>See</i> 5 C.F.R. § 2634.804.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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3.3	During the period under review, the agency notified OGE of ethics agreement compliance in a timely fashion. <i>See</i> DO-09-015.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.4	For all officials currently in PAS positions, the agency maintains documentation of actions taken to comply with ethics agreements. <i>See</i> 5 C.F.R. § 2634.804.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.5	For all officials currently in PAS positions, ethics agreements are maintained with their financial disclosure reports. <i>See</i> 5 C.F.R. § 2634.805.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
COMMENTS				
<p><u>Comment:</u> (3.1 – 3.5) NWTRB has no PAS officials.</p> <p><u>Suggestion:</u> (3.4 – 3.5) Although not a PAS official, the NWTRB Executive Director agreed to take certain actions to avoid any real or perceived conflicts of interest. Because a record of actions taken by the Executive Director to comply with his agreement were not retained following NWTRB's 2014 change in DAEO, OGE suggests the current DAEO ensure complete documentation of the agreement and compliance actions are maintained with the Executive Director's financial disclosure report in accordance with 5 C.F.R. § 2634.805.</p>				

4.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278, OGE Form 278-T)							
COMPLIANCE REQUIREMENT				Yes	No	N/A	
4.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C. app. IV, § 402(d)(1).						
4.1.1	• Collection of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
4.1.2	• Review/evaluation of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
4.1.3	• Public availability of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
4.2	The agency can demonstrate that late filing fees are collected or, where appropriate, waivers are issued when public filers do not timely file financial disclosure reports.				<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.3	Public financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-1.				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.4	Public financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.603(g)(1).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%			
4.5	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).				100%		
4.6	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).				91%		
4.7	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).				100%		
4.8	Percentage of sampled non-PAS public financial disclosure reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> PA-11-04.				100%		
4.9	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).				N/A		
4.10	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).				N/A		
4.11	Percentage of sampled PAS annual and termination reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. § 2634.605(a).				N/A		
COMMENTS							
<p>(4.2) NWTRB did not have any filers subject to the late filing fee during 2015.</p> <p>(4.4) OGE identified public financial disclosure reports maintained beyond the six-year retention requirement. NWTRB subsequently assured OGE that these reports were destroyed in accordance with applicable retention requirements. Therefore, OGE is not issuing a recommendation for corrective action.</p> <p>(4.9 – 4.11) NWTRB has no PAS officials.</p>							

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5.0 CONFIDENTIAL FINANCIAL DISCLOSURE							
COMPLIANCE REQUIREMENT				Yes	No	N/A	
5.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C app. IV, § 402(d)(1).						
5.1.1	•	Collection of confidential financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
5.1.2	•	Review/evaluation of confidential financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
5.2	Confidential financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-2.				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.3	The agency's OGE-approved alternative confidential financial disclosure system complies with plans approved by OGE. <i>See</i> 5 C.F.R. § 2634.905(a).				<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.4	Confidential financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.604.				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%			
5.5	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).				100%		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).				N/A		
5.7	Percentage of sampled confidential financial disclosure reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. §§ 2634.605(a), 2634.909(a).				80%		
COMMENTS							
<p>(5.3) NWTRB does not have an alternative confidential financial disclosure system.</p> <p>(5.6) NWTRB did not have any annual confidential reports during 2015.</p> <p>(5.7) NWTRB certified 1 of the 5 (20%) new entrant reports more than 60 days after the date of receipt. The DAEO acknowledged erroneously holding this report more than 60 days from the date of receipt and stated that the ethics office will ensure all future reports are certified timely. Because this appears to be an isolated administrative error, OGE is not issuing a recommendation for corrective action.</p>							

6.0 INITIAL ETHICS ORIENTATION							
COMPLIANCE REQUIREMENT				Yes	No	N/A	
6.1	All initial ethics orientation material contains: <i>See</i> 5 C.F.R. § 2638.703(a) and (b).						
6.1.1	•	Current contact information of relevant ethics official(s)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
6.1.2	•	Copy of the Standards of Ethical Conduct and any agency supplemental standards to keep or review; or • Summaries of the Standards, any agency supplemental standards, and 14 Principles for employees to keep	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
6.2	The agency can demonstrate that it has an effective process to ensure that new employees receive initial ethics orientations. <i>See</i> 5 C.F.R. § 2638.703(c).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%			
6.3	Percentage of new agency employees who received initial ethics orientation within 90 days. <i>See</i> 5 C.F.R. § 2638.703.				100%		
COMMENTS							
None							

7.0 ANNUAL ETHICS TRAINING						
COMPLIANCE REQUIREMENT				Yes	No	N/A

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7.1	All annual ethics training material contains: <i>See</i> 5 C.F.R. § 2638.704(b).			
7.1.1	• Current contact information of relevant ethics official(s)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.2	• Review of the criminal conflict of interest statutes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.3	• Review of the Standards of Ethical Conduct	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.4	• Review of the 14 Principles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.5	• Review of any agency supplemental standards	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7.2	The agency can demonstrate that it has an effective process to ensure that covered employees receive annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(c) and 705(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS		%		
7.3	Public financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(a).	100%		
7.4	Confidential financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.705(a)(3).	100%		
COMMENTS				
(7.1.5) NWTRB does not have supplemental standards of conduct.				

8.0 ETHICS ADVICE AND COUNSELING				
COMPLIANCE REQUIREMENT		Yes	No	N/A
8.1	Based on a sample collected by OGE, guidance provided by agency ethics officials to employees appears to be consistent with applicable laws and regulations.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
None				